

AMENDED IN SENATE SEPTEMBER 11, 2003

AMENDED IN SENATE SEPTEMBER 4, 2003

AMENDED IN SENATE JULY 3, 2003

AMENDED IN SENATE JUNE 26, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1666**

**Introduced by Assembly Member Cogdill  
(Coauthors: Assembly Members Chavez and Jerome Horton)**

February 21, 2003

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An act to amend, repeal, and add Sections 30142, 30168, 30181, and 30182 of the Revenue and Taxation Code, relating to ~~taxation, and declaring the urgency thereof, to take effect immediately.~~ *taxation.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1666, as amended, Cogdill. Cigarettes and tobacco products.

The Cigarette and Tobacco Products Tax Law requires distributors and wholesalers of cigarette and tobacco products to be licensed by the State Board of Equalization. The Cigarette and Tobacco Products Tax Law also requires a tax imposed by that law with respect to distributions of cigarettes to be paid by distributors through the use of stamps or meter register settings, and requires that these stamps or meter register settings be affixed to each package of cigarettes sold.

Existing law requires all distributors of cigarette and tobacco products that are required to be licensed by the State Board of

Equalization to furnish a \$1,000 security deposit. Existing law requires a distributor that defers payments for stamps or meter register settings to furnish a security deposit of at least 70% of, but not more than twice the amount of, stamps and meter register settings for which payment is deferred.

This bill would, until January 1, 2007, reduce the amount of the security deposit required to be provided by a distributor that defers payments for stamps or meter register settings and elects to make those payments on a twice-monthly basis, as authorized by this bill, to an amount that is at least 50% of, but not more than twice the amount of, stamps and meter register settings for which payment is deferred.

Existing law requires distributors that defer payments for stamps and meter register settings to remit the payments on or before the 25th day of the month following the month in which the payments were deferred.

This bill would, until January 1, 2007, require distributors that defer payments for stamps and meter register settings to elect to remit those payments either on a monthly or on a twice-monthly basis.

Existing law requires distributors of cigarettes and tobacco products to file returns for, and remit the taxes collected on, the distributions of cigarettes and tobacco products on or before the 25th day of the month following the month during which the cigarettes or tobacco products were distributed.

This bill would, until January 1, 2007, require distributors of cigarettes and tobacco products to elect to file those returns and remit those taxes, as specified, either on a monthly basis or on a twice-monthly basis.

This bill would require the Legislative Analyst, on or before January 1, 2006, to prepare a report of the economic impact of this act.

~~This bill would declare that it is to take effect immediately as an urgency statute, but its operative date would depend on its effective date.~~

Vote: <sup>2</sup>/<sub>3</sub> majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 30142 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 30142. (a) The board shall fix the amount of the security
- 4 required of any distributor and may increase or reduce the amount



1 at any time. A minimum security in the amount of one thousand  
2 dollars (\$1,000) shall be furnished by every distributor that is  
3 required to be licensed.

4 (b) If a distributor desires to defer payments for stamps or  
5 meter register settings, as provided in Article 2 (commencing with  
6 Section 30166) of Chapter 3.5, the board shall require a security  
7 as follows:

8 (1) If a distributor elects, under Section 30168, to make  
9 payments on a monthly basis, the board shall require a security  
10 equal to not less than 70 percent of the amount and no more than  
11 twice the amount, as fixed by the board, of the distributor's  
12 purchases of stamps and meter register settings for which payment  
13 may be deferred.

14 (2) If a distributor elects, under Section 30168, to make  
15 payments on a twice-monthly basis, the board shall require a  
16 security equal to not less than 50 percent of the amount and no  
17 more than twice the amount, as fixed by the board, of the  
18 distributor's purchases of stamps and meter register settings for  
19 which payment may be deferred.

20 (c) This section shall remain in effect until January 1, 2007, and  
21 as of that date is repealed.

22 SEC. 2. Section 30142 is added to the Revenue and Taxation  
23 Code, to read:

24 30142. (a) The board shall fix the amount of the security  
25 required of any distributor and may increase or reduce the amount  
26 at any time. A minimum security in the amount of one thousand  
27 dollars (\$1,000) shall be furnished by every distributor that is  
28 required to be licensed.

29 (b) If a distributor desires to defer payments for stamps or  
30 meter register settings, as provided in Article 2 (commencing with  
31 Section 30166) of Chapter 3.5, the board shall require a security  
32 equal to not less than 70 percent of the amount and no more than  
33 twice the amount, as fixed by the board, of the distributor's  
34 purchases of stamps and meter register settings for which payment  
35 may be deferred.

36 (c) This section shall become operative on January 1, 2007.

37 SEC. 3. Section 30168 of the Revenue and Taxation Code is  
38 amended to read:

39 30168. (a) Amounts owing for stamps and meter register  
40 settings purchased on the deferred-payment basis in any calendar

1 month shall be due and payable on a monthly basis, in the manner  
2 elected pursuant to subdivision (b), during the month following  
3 the calendar month in which the stamps and meter register settings  
4 were purchased. Payment shall be made by a remittance payable  
5 to the board.

6 (b) A distributor shall elect to make the payment required by  
7 subdivision (a) on either a monthly or a twice-monthly basis. An  
8 election made pursuant to this subdivision shall remain in effect  
9 for at least one year from the date the election is made. If the board  
10 finds that good cause exists for a distributor's inability to maintain  
11 the election for the full year, the board shall authorize the  
12 distributor to make a new election, as otherwise authorized by this  
13 subdivision, prior to the expiration of the one-year period  
14 following the prior election.

15 (1) If a distributor elects to make the payment required by  
16 subdivision (a) on a monthly basis, the distributor shall remit the  
17 payment on or before the 25th day of the month following the  
18 month in which the stamps and meter register settings were  
19 purchased.

20 (2) If a distributor elects to make the payment required by  
21 subdivision (a) on a twice-monthly basis, the distributor shall  
22 make two remittances during the month following the month in  
23 which the stamps and meter register settings were purchased. The  
24 first monthly remittance shall be made on or before the 5th day of  
25 the month and shall be equal to either one-half of the total amount  
26 of those purchases of stamps and meter register settings that were  
27 made during the preceding month or the total amount of those  
28 purchases of stamps and meter register settings that were made  
29 between the first day and the 15th day of the preceding month,  
30 whichever is greater. The second monthly remittance shall be  
31 made on or before the 25th day of the month for the remainder of  
32 those purchases of stamps and meter register settings that were  
33 made in the preceding month.

34 (c) This section shall remain in effect until January 1, 2007, and  
35 as of that date is repealed.

36 SEC. 4. Section 30168 is added to the Revenue and Taxation  
37 Code, to read:

38 30168. (a) Amounts owing for stamps and meter register  
39 settings purchased on the deferred-payment basis in any calendar  
40 month shall be due and payable on or before the 25th day of the

1 following calendar month. Payment shall be made by a remittance  
2 payable to the board.

3 (b) This section shall become operative on January 1, 2007.

4 SEC. 5. Section 30181 of the Revenue and Taxation Code is  
5 amended to read:

6 30181. (a) When any tax imposed upon cigarettes under  
7 Article 1 (commencing with Section 30101), Article 2  
8 (commencing with Section 30121), and Article 3 (commencing  
9 with Section 30131) of Chapter 2 is not paid through the use of  
10 stamps or meter impressions, the tax shall be due and payable  
11 monthly on or before the 25th day of the month following the  
12 calendar month in which a distribution of cigarettes occurs, or in  
13 the case of a sale of cigarettes on the facilities of a common carrier  
14 for which the tax is imposed pursuant to Section 30104, the tax  
15 shall be due and payable monthly on or before the 25th day of the  
16 month following the calendar month in which a sale of cigarettes  
17 on the facilities of the carrier occurs.

18 (b) Each distributor of tobacco products shall file a return in the  
19 form as prescribed by the board, that may include, but not be  
20 limited to, electronic media, with respect to distributions of  
21 tobacco products and their wholesale cost during the preceding  
22 month, and any other information as the board may require to carry  
23 out this part. The return shall be filed with the board, in the manner  
24 elected by the distributor pursuant to subdivision (c), together with  
25 a remittance payable to the board, of the amount of tax, if any, due  
26 under Article 2 (commencing with Section 30121) or Article 3  
27 (commencing with Section 30131) of Chapter 2 for that period. To  
28 facilitate the administration of this part, the board may require the  
29 filing of the returns for longer than monthly periods. Returns shall  
30 be authenticated in a form or pursuant to methods as may be  
31 prescribed by the board.

32 (c) A distributor shall elect to file the return and to make the  
33 payment required by subdivision (b) on either a monthly or a  
34 twice-monthly basis. An election made pursuant to this  
35 subdivision shall remain in effect for at least one year from the date  
36 the election is made. If the board finds that good cause exists for  
37 a distributor's inability to maintain the election for the full year,  
38 the board shall authorize the distributor to make a new election, as  
39 otherwise authorized by this subdivision, prior to the expiration of  
40 the one-year period following the prior election.

1 (1) If a distributor elects a monthly basis, the distributor shall  
2 file a return and remit the payment on or before the 25th day of the  
3 month following the month in which the tobacco products were  
4 distributed.

5 (2) If a distributor elects a twice-monthly basis, the distributor  
6 shall file two returns and make two remittances during the month  
7 following the month in which the tobacco products were  
8 distributed. The first monthly return shall be filed and the first  
9 remittance shall be made on or before the 5th day of the month for  
10 those distributions that occurred between the first day and the 15th  
11 day of the preceding month. The second monthly return shall be  
12 filed and the second remittance made on or before the 25th day of  
13 the month for those distributions that occurred between the 16th  
14 day and last day of the preceding month.

15 (d) This section shall remain in effect until January 1, 2007, and  
16 as of that date is repealed.

17 SEC. 6. Section 30181 is added to the Revenue and Taxation  
18 Code, to read:

19 30181. (a) When any tax imposed upon cigarettes under  
20 Article 1 (commencing with Section 30101), Article 2  
21 (commencing with Section 30121), and Article 3 (commencing  
22 with Section 30131) of Chapter 2 is not paid through the use of  
23 stamps or meter impressions, the tax shall be due and payable  
24 monthly on or before the 25th day of the month following the  
25 calendar month in which a distribution of cigarettes occurs, or in  
26 the case of a sale of cigarettes on the facilities of a common carrier  
27 for which the tax is imposed pursuant to Section 30104, the tax  
28 shall be due and payable monthly on or before the 25th day of the  
29 month following the calendar month in which a sale of cigarettes  
30 on the facilities of the carrier occurs.

31 (b) Each distributor of tobacco products shall file a return in the  
32 form, as prescribed by the board, which may include, but not be  
33 limited to, electronic media respecting the distributions of tobacco  
34 products and their wholesale cost during the preceding month, and  
35 any other information as the board may require to carry out this  
36 part. The return shall be filed with the board on or before the 25th  
37 day of the calendar month following the close of the monthly  
38 period for which it relates, together with a remittance payable to  
39 the board, of the amount of tax, if any, due under Article 2

(commencing with Section 30121) or Article 3 (commencing with Section 30131) of Chapter 2 for that period.

(c) To facilitate the administration of this part, the board may require the filing of the returns for longer than monthly periods.

(d) Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

(e) This section shall become operative on January 1, 2007.

SEC. 7. Section 30182 of the Revenue and Taxation Code is amended to read:

30182. (a) Except as provided in subdivision (b), every distributor shall file, on or before the 25th day of each month, a report in the form as prescribed by the board, that may include, but not be limited to, electronic media with respect to distributions of cigarettes and purchases of stamps and meter register units during the preceding month and any other information as the board may require to carry out this part.

(b) Every distributor that elects, pursuant to Section 30168, to make deferred payments on a twice-monthly basis shall file a report in the form as prescribed by the board, that may include, but not be limited to, electronic media, with respect to distributions of cigarettes and purchases of stamps and meter register units during the month following the month in which the distribution occurred and the stamps and meter register settings were purchased, and any other information as the board may require to carry out this part. The monthly report shall be filed on or before the 5th day of the month with respect to those distributions of cigarettes and purchases of stamps and meter register settings that were made during the preceding month.

(c) Reports shall be authenticated in a form, or pursuant to, methods as may be prescribed by the board.

(d) This section shall remain in effect until January 1, 2007, and as of that date is repealed.

SEC. 8. Section 30182 is added to the Revenue and Taxation Code, to read:

30182. (a) Every distributor shall, on or before the 25th day of each month, file a report in the form as prescribed by the board, which may include, but not be limited to, electronic media with respect to distributions of cigarettes and purchases of stamps and meter register units during the preceding month and any other information as the board may require to carry out this part.



(b) Every distributor shall, on or before the 25th day of each month, file a return, in the form as prescribed by the board, which may include, but not be limited to, electronic media, with respect to distributions of tobacco products and their wholesale cost during the preceding month, and any other information as the board may require to carry out this part.

(c) The reports and returns required by this section shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

(d) This section shall become operative on January 1, 2007.

SEC. 9. The Legislative Analyst, with assistance of, and based on information provided by, the State Board of Equalization, shall, on or before January 1, 2006, prepare a report to the Legislature of the economic impact of this act. The report shall include an evaluation of the State Board of Equalization's ability to collect cigarette tax revenues, additional revenues, if any, generated by the twice-monthly payment program, and the ability of distributors to access security bonds.

~~SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~In view of the fact that the State of California is experiencing a fiscal crisis, and in order to improve compliance with state tax laws, it is necessary that this act take effect immediately.~~

~~SEC. 11. The provisions of this act shall become operative on the first day of the first month commencing more than 60 days after the effective date of this act.~~